



February 26, 2016

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## ENGROSSED SENATE BILL No. 162

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DIGEST OF SB 162 (Updated February 24, 2016 6:45 pm - DI 77)

**Citations Affected:** IC 16-18; IC 16-21; IC 34-30.

**Synopsis:** Hospital employee immunizations. Requires a hospital, beginning January 1, 2017, to administer or make available to be administered certain immunizations to hospital employees or contractors who routinely have direct contact with a patient of the hospital. Allows a hospital to elect to annually administer or make available certain immunizations to health care professionals, other employees, and contractors. Provides for exceptions. Requires a hospital to administer or make influenza immunizations available certain times during the year. Allows a hospital to establish a process for determining whether the tenets of the religion relied upon for an exemption prohibit the individual from receiving the immunization. Authorizes a hospital, if the hospital has a written policy in place before the individual's failure to receive the immunization, to: (1) make as a condition of employment or a contract an individual having an immunization; and (2) terminate an employee or contractor for not obtaining the immunization if the employee or contractor does not qualify for an exemption. Provides for immunity for the hospital.

**Effective:** July 1, 2016; January 1, 2017.

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**Miller Patricia, Arnold J, Mrvan,**  
**Mishler, Randolph Lonnie M**  
(HOUSE SPONSORS — KIRCHHOFFER, BROWN C)

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January 5, 2016, read first time and referred to Committee on Health & Provider Services.  
January 28, 2016, amended, reported favorably — Do Pass.  
February 1, 2016, read second time, ordered engrossed. Engrossed.  
February 2, 2016, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 8, 2016, read first time and referred to Committee on Public Health.  
February 25, 2016, amended, reported — Do Pass.

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ES 162—LS 6512/DI 104





February 26, 2016

Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 162

A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1       SECTION 1. IC 16-18-2-162, AS AMENDED BY P.L.212-2005,  
2       SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2016]: Sec. 162. (a) **"Health care professional", for  
4       purposes of IC 16-21-13, has the meaning set forth in  
5       IC 16-21-13-1.**  
6       (b) "Health care professional", for purposes of IC 16-27-1 and  
7       IC 16-27-4, has the meaning set forth in IC 16-27-1-1.  
8       **(c)** "Health care professional", for purposes of IC 16-27-2, has  
9       the meaning set forth in IC 16-27-2-1.  
10       SECTION 2. IC 16-18-2-223.7, AS AMENDED BY P.L.29-2009,  
11       SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12       JULY 1, 2016]: Sec. 223.7. "Medically contraindicated", for purposes  
13       of **IC 16-21-13**, IC 16-28-14, and IC 16-28-14.5, means that a vaccine  
14       would be detrimental to an individual's health because of a medical  
15       condition of the individual.  
16       SECTION 3. IC 16-21-13 IS ADDED TO THE INDIANA CODE  
17       AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE

ES 162—LS 6512/DI 104



1 JULY 1, 2016]:

2 **Chapter 13. Hospital Employee Immunizations**

3 **Sec. 0.5. This chapter is effective beginning January 1, 2017.**

4 **Sec. 1. (a) As used in this chapter, "health care professional"**  
5 **means any individual who provides services for a hospital,**  
6 **including the following:**

- 7 (1) Physicians.  
8 (2) Volunteers.  
9 (3) Residents.  
10 (4) Temporary workers.  
11 (5) Students.  
12 (6) Vendors.

13 (b) As used in this section, "routinely has direct contact with a  
14 patient" means routinely having any of the following:

- 15 (1) Face to face interaction with a patient of the hospital.  
16 (2) A physical presence inside a patient room or any enclosed,  
17 non-common area of the hospital that is used exclusively for  
18 medical examinations, treatments, or procedures.

19 (c) This chapter applies to the following:

- 20 (1) A hospital licensed under IC 16-21-2.  
21 (2) An employee or a contractor of a hospital described in  
22 subdivision (1) who routinely has direct contact with a patient  
23 of the hospital.  
24 (3) An employee or a contractor of a hospital described in  
25 subdivision (1) who does not routinely have direct contact  
26 with a patient of the hospital.

27 **Sec. 2. (a) Subject to section 4 of this chapter, a hospital shall**  
28 **annually administer or make available to be administered to an**  
29 **individual described in section 1(c)(2) of this chapter an**  
30 **immunization against the following:**

- 31 (1) Influenza.  
32 (2) Varicella.  
33 (3) Measles, mumps, and rubella.  
34 (4) Tetanus, diphtheria, and pertussis.  
35 (5) Other immunizations, as determined by the hospital.

36 (b) Subject to section 4 of this chapter, a hospital may elect to  
37 annually administer or make available to be administered to a  
38 health care professional or an individual described in section  
39 1(c)(3) of this chapter an immunization against any of the  
40 following:

- 41 (1) Influenza.  
42 (2) Varicella.



1           (3) Measles, mumps, and rubella.

2           (4) Tetanus, diphtheria, and pertussis.

3       A hospital that makes an election under this subsection may  
4       determine to whom, of the health care professionals and  
5       individuals described in section 1(c)(3) of this chapter, the hospital  
6       will administer or make available an immunization.

7       (c) A hospital shall conduct immunizations under this section in  
8       accordance with the recommendations established by the Advisory  
9       Committee on Immunization Practices of the United States Centers  
10      for Disease Control and Prevention that are in effect at the time the  
11      hospital conducts the immunizations.

12      (d) A hospital may do any of the following:

13          (1) Make, as a condition of employment or a contract with the  
14          hospital, a requirement that an individual have an  
15          immunization specified in this section.

16          (2) Terminate the employment or contract of an individual or  
17          otherwise discipline the employee or contractor if:

18              (A) the individual:

19                  (i) did not receive the immunization listed in this section;  
20                  and

21                  (ii) did not qualify for or seek an exemption under  
22                  section 4 of this chapter at the time the immunization  
23                  was to be administered or made available to the  
24                  individual by the hospital; and

25              (B) the hospital had an adopted written policy in place  
26              before the individual's failure to receive the immunization  
27              that permits the hospital to terminate or discipline the  
28              individual.

29      (e) A hospital and an employee or agent acting on behalf of the  
30      hospital is immune from any liability arising from or concerning  
31      the termination or discipline of an individual under this chapter if  
32      the hospital has complied with subsection (d)(2) before the  
33      termination or discipline of the individual.

34      Sec. 3. A hospital shall administer or make available to be  
35      administered an influenza immunization required under section 2  
36      of this chapter during the period beginning October 1 of each year  
37      and ending February 1 of the following year.

38      Sec. 4. (a) A hospital is not required to provide or make  
39      available to an individual described in section 1 of this chapter an  
40      immunization if the state department determines that the  
41      necessary vaccine is not in adequate supply.

42      (b) A hospital shall not require an individual described in



1 section 1 of this chapter to receive an immunization under this  
2 chapter if:

3 (1) the hospital:

4 (A) has written documentation from the individual's  
5 physician or other health care provider indicating the date  
6 and place that the individual received an immunization  
7 described in section 2 of this chapter; and

8 (B) determines that no additional immunization is  
9 required;

10 (2) the immunization is medically contraindicated for the  
11 individual; or

12 (3) receiving the immunization is against the individual's  
13 religious beliefs.

14 (c) A hospital may establish a process for determining whether  
15 the tenets of the religion relied upon by an individual for purposes  
16 of the exemption in subsection (b)(3) prohibit the individual from  
17 receiving an immunization listed in section 2 of this chapter.

18 SECTION 4. IC 34-30-2-66.6 IS ADDED TO THE INDIANA  
19 CODE AS A NEW SECTION TO READ AS FOLLOWS  
20 [EFFECTIVE JANUARY 1, 2017]: Sec. 66.6. IC 16-21-13-2(e)  
21 (Concerning hospitals and immunizations).



## COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 162, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 11, after "1." insert **"(a) This chapter is effective beginning January 1, 2017."**

**(b) As used in this section, "routinely has direct contact with a patient" means routinely having any of the following:**

**(1) Face to face interaction with a patient of the hospital.**

**(2) A physical presence inside a patient room or any enclosed, non-common area of the hospital that is used exclusively for medical examinations, treatments, or procedures.**

**(c) "**

Page 1, line 12, delete "any of the following:" and insert **"IC 16-21-2."**

Page 1, delete lines 13 through 16.

Page 1, line 17, after "employee" insert **"or a contractor"**.

Page 1, line 17, after "who" insert **"routinely"**.

Page 2, between lines 1 and 2, begin a new line block indented and insert the following:

**"(3) An employee or a contractor of a hospital described in subdivision (1) who does not routinely have direct contact with a patient of the hospital."**

Page 2, line 2, delete "Except as provided in" and insert **"Subject to"**.

Page 2, line 2, delete "and" and insert **","**.

Page 2, line 3, delete "subject to obtaining an employee's consent,".

Page 2, line 4, delete "the" and insert **"to an individual described in section 1(c)(2) of this chapter an immunization against the following:**

**(1) Influenza.**

**(2) Varicella.**

**(3) Measles, mumps, and rubella.**

**(4) Tetanus, diphtheria, and pertussis.**

**(b) Subject to section 4 of this chapter, a hospital may elect to annually administer or make available to be administered to an individual described in section 1(c)(3) of this chapter an immunization against any of the following:**

**(1) Influenza.**

**(2) Varicella.**



**(3) Measles, mumps, and rubella.**

**(4) Tetanus, diphtheria, and pertussis.**

**A hospital that makes an election under this subsection may determine to whom, of the individuals described in section 1(c)(3) of this chapter, the hospital will administer or make available an immunization."**

Page 2, delete lines 5 through 11.

Page 2, line 12, delete "(b)" and insert "(c)".

Page 2, between lines 16 and 17, begin a new paragraph and insert the following:

**"(d) A hospital may do any of the following:**

**(1) Make, as a condition of employment or a contract with the hospital, a requirement that an individual have an immunization specified in this section.**

**(2) Terminate the employment or contract of an individual or otherwise discipline the employee or contractor if:**

**(A) the individual:**

**(i) did not receive the immunization listed in this section; and**

**(ii) did not qualify for or seek an exemption under section 4 of this chapter at the time the immunization was to be administered or made available to the individual by the hospital; and**

**(B) the hospital had an adopted written policy in place before the individual's failure to receive the immunization that permits the hospital to terminate or discipline the individual.**

**(e) A hospital and an employee or agent acting on behalf of the hospital is immune from any liability arising from or concerning the termination or discipline of an individual under this chapter if the hospital has complied with subsection (d)(2) before the termination or discipline of the individual."**

Page 2, line 17, delete "annually".

Page 2, line 18, delete "the" and insert "an".

Page 2, line 18, delete "section 2(a)(1)" and insert "**section 2**".

Page 2, line 19, delete "to an employee described in section 1(2) of this".

Page 2, line 20, delete "chapter and who is employed by the hospital".

Page 2, line 21, after "October 1" insert "**of each year**".

Page 2, line 23, delete "the hospital's employees" and insert "**an individual described in section 1 of this chapter**".





Page 2, line 26, delete "employee" and insert "**individual described in section 1 of this chapter**".

Page 2, line 29, delete "employee's" and insert "**individual's**".

Page 2, line 32, delete "required under" and insert "**described in section 2 of**".

Page 2, line 36, delete "employee;" and insert "**individual; or**".

Page 2, line 37, delete "employee's" and insert "**individual's**".

Page 2, line 38, delete "; or" and insert ".".

Page 2, delete lines 39 through 42, begin a new paragraph and insert:

**"(c) A hospital may establish a process for determining whether the tenets of the religion relied upon by an individual for purposes of the exemption in subsection (b)(3) prohibit the individual from receiving an immunization listed in section 2 of this chapter.**

SECTION 3. IC 34-30-2-66.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017]: **Sec. 66.6. IC 16-21-13-2(e) (Concerning hospitals and immunizations).**".

and when so amended that said bill do pass.

(Reference is to SB 162 as introduced.)

MILLER PATRICIA, Chairperson

Committee Vote: Yeas 7, Nays 0.

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#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 162, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-18-2-162, AS AMENDED BY P.L.212-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 162. (a) **"Health care professional", for purposes of IC 16-21-13, has the meaning set forth in IC 16-21-13-1.**

(b) "Health care professional", for purposes of IC 16-27-1 and IC 16-27-4, has the meaning set forth in IC 16-27-1-1.

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~~(b)~~ (c) "Health care professional", for purposes of IC 16-27-2, has the meaning set forth in IC 16-27-2-1."

Page 1, line 11, delete "1. (a)" and insert "**0.5.**".

Page 1, between lines 11 and 12, begin a new paragraph and insert:

**"Sec. 1. (a) As used in this chapter, "health care professional" means any individual who provides services for a hospital, including the following:**

- (1) Physicians.**
- (2) Volunteers.**
- (3) Residents.**
- (4) Temporary workers.**
- (5) Students.**
- (6) Vendors."**

Page 2, between lines 16 and 17, begin a new line block indented and insert:

**"(5) Other immunizations, as determined by the hospital."**

Page 2, line 18, after "administered to" insert "**a health care professional or**".

Page 2, line 26, after "the" insert "**health care professionals and**".

Page 3, line 15, after "an" insert "**influenza**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 162 as printed January 29, 2016.)

KIRCHHOFFER

Committee Vote: yeas 8, nays 3.

